

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CARL BRUCE FANNING and
BRONDENA FANNING,

Plaintiffs,

vs.

NATIONAL CARRIERS, INC.; BRUCE
NORMAN, JR.; et al.,

Defendants.

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CASE NO.: 2:05-cv-01121-MHT

PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiffs move the Court for Leave to Amend the Complaint to add a party Defendant based on new information recently acquired. Plaintiffs hereby attach a copy of the Proposed First Amendment to Complaint and written consent by defense counsel.

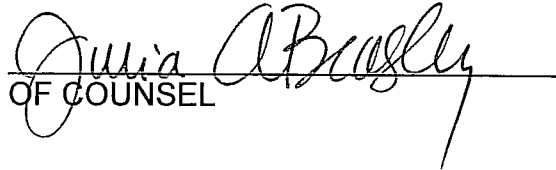
WHEREFORE, Plaintiffs request the Court to allow them leave to amend.


JULIA A. BEASLEY (BEA039)
Attorney for Plaintiffs

OF COUNSEL:
BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.
Post Office Box 4160
Montgomery, AL 36103
(334) 269-2343
(334) 954-7555 fax

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all counsel of record as listed below by placing a copy of same in the United States Mail, first class postage prepaid on this the 15th day of August, 2006.


OF COUNSEL

Mr. Robert Black
HILL, HILL, CARTER,
FRANCO, COLE & BLACK, P.C.
Post Office Box 116
Montgomery, Alabama 36101-0116

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CASE NO.: 2:05-cv-01121-MHT

PLAINTIFFS' FIRST AMENDMENT TO COMPLAINT

On the basis on newly acquired information, Plaintiffs amend the original Complaint by adding the following party Defendant and the following Counts:

35. Defendant Rains & Sons Express, LLC, (hereinafter "Rains & Sons") is a corporation which had its principle place of business in Perkins, Oklahoma.

36. Plaintiffs reallege all prior paragraphs of and counts set forth in the original Complaint as to Defendant Rains & Sons.

Additional Statement of the Facts

37. Prior to and on June 17, 2005, Defendant National Carriers had entered into a lease agreement with Rains & Sons. Said agreement was in effect on June 17, 2005.

38. At said time and place, Defendant Rains & Sons contracted with Defendant National Carriers to provide equipment and drivers, including Defendant Norman, to National Carriers.

Count VI

39. Plaintiffs reallege all prior paragraphs of the original Complaint as if set out here in full.

40. This Count is based on Respondeat Superior in that at all times material hereto, Defendant Norman, was acting as agent, employee and/or servant of Defendant Rains & Sons and was acting within the line and scope of his employment with Defendant Rains & Sons.

41. In that Defendant Norman, an employee of Defendant Rains & Sons, was acting within the line and scope of his employment with said Defendant. Defendant Rains and Sons are liable for the actions of Defendant Norman as its employee and agent.

42. As a proximate consequence of Defendant Norman's negligence, Plaintiff Carl Fanning was injured and damaged as alleged in paragraph 19 of the original Complaint.

WHEREFORE, Plaintiffs demand judgment against all Defendants in such an amount as a jury may award for compensatory damages; a separate amount for punitive damages; and the costs of this action.

COUNT VII

43. Plaintiffs allege all paragraphs of the Complaint as if set out here in full.

44. The negligence or wantonness or other wrongful conduct of all Defendants combined and concurred to cause the aforesaid collision involving Carl Fanning.

45. As a proximate consequence of the combining and concurring negligence or wantonness or other wrongful conduct of all Defendants, Carl Fanning was injured and damaged as alleged in paragraph 19 of the original Complaint.

WHEREFORE, Plaintiff demands judgment against all Defendants in such an amount of punitive damages as a jury may award and the costs of this action.


JULIA A. BEASLEY (BEA039)
Attorney for Plaintiffs

OF COUNSEL:

BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.
P.O. Box 4160
Montgomery, AL 36103-4160
(334) 269-2343

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OF COUNSEL

Mr. Robert C. Black
HILL, HILL, CARTER,
FRANCO, COLE & BLACK, P.C.
Post Office Box 116
Montgomery, Alabama 36101-0116



Robert C. Black, Jr.
Direct Dial: 334.386.4334
Facsimile: 334.832.7419
rcblackjr@hillhillcarter.com

Hill, Hill, Carter,
Franco, Cole & Black, P.C.
Attorneys at Law

Post Office Box 116
Montgomery, AL 36101-0116

425 South Perry Street
Montgomery, Alabama 36104

Telephone: 334.834.7600
www.HillHillCarter.com

August 15, 2006

By Facsimile Transmission and U.S. Mail

Julia A. Beasley, Esq.
BEASLEY, ALLEN CROW, METHVIN
PORTIS & MILES, P.C.
Post Office Box 4160
Montgomery, Alabama 36103-4160

Re: Carl Bruce Fanning, et ux v. National Carriers, et al.,
In the United States District Court for the Middle District of
Alabama, Northern Division
Civil Action No. 2:05-cv-01121-CSC

Dear Julia:

As we discussed, I have no objection to you filing an Amendment to the Complaint to add Rains & Sons Express, LLC as a party defendant in the above-referenced case. This letter serves as written consent of such amendment.

Sincerely,

Robert C. Black, Jr.

RCB,Jr.:rm